IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 87 OF 2001.

Miss Sarita Yadav,
major of age,
resident of Vasco-da-Gama,
Goa. ... Petitioner.

VERSUS

1. State of Goa
   Through the Chief Secretary,
   With his office at
   Secretariat, Panaji, Goa.

2. The Chief Officer,
   Mormugao Municipal Council,
   Vasco-da-Gama, Goa.

3. The Member-Secretary,
   Vasco Planning and
   Development Authority,
   With his Office at
   Commerce Centre, 2nd Floor,
   Near Bus Stand, Vasco-da-Gama,
   Goa.

4. Mr. Ramdas B. Keni Rebelo,
   C/o Saple Constructions,
   Lotus Apartment,
   Vasco-da-Gama, Goa.

5. M/s. Saple Constructions,
   represented by
   Mr. Gurudas Chanter Saple,
   major in age,
   residing at Lotus Apartment,
   2nd Floor, Flat No.3,
   Dr. Rajendra Prasad Road,
   Vasco-da-Gama, Goa.

6. The Officer-in-Charge,
   Harbour Police Station,
   Mormugao, Goa.

7. The Superintendent of Police,
   South Goa District,
   Margao, Goa. ... Respondents.

Mr. S.D. Lotlikar, Senior Advocate with Ms. S. Naik,
Advocate for the Petitioner.

Mr. S.R. Rivonkar, Government Advocate for the Respondents No.1, 6 and 7.

Mr. S.D. Padiyar, Advocate for the Respondents No.2 and 3.

Mr. M.S. Sonak, Advocate for the Respondent No.5.

CORAM: N.N. MHATRE &
P.V. HARDAS, JJ.

DATE: 8TH MARCH, 2004.

ORAL JUDGMENT: **(PER HARDAS, J.)**

This petition at the instance of one of the occupants in a building constructed by Respondent No.5, prays for the relief of issuing appropriate writ, directing the Respondent No.2 and Respondent No.3 to demolish the said building, on the ground that the said building had been constructed in violation of necessary Rules and Regulations. Prayer clause (b) prays for issuance of a direction directing the Respondent No.2 Mormugao Municipal Council to enforce its Notice dated 17.7.2000 directing the occupants of the building to vacate the same on the ground that it was unsafe. While issuing notice in this petition, notice was issued only in respect of prayer clauses (a) and (b). The relief in terms of prayer clauses (c) and (d) is not pressed before us at the time of hearing.

2. In view of the subsequent developments, it is not necessary for us to advert to the facts of the

instant Petition. It appears that some interim measures were suggested to the contractor in order to ensure that the building was safe. Thereafter fresh plans have been submitted for approval/regularisation before the Planning and Development Authority. According to us, therefore, the grievance which the petitioner has regarding the construction which has been carried out, for which regularisation is sought, can be agitated by the petitioner before the Planning and Development Authority.

3. Mr.Padiyar and Mr. Sonak, learned counsel appearing for the respective parties, have stated that fresh plans for approval/regularisation have been presented before the Planning and Development Authority.

4. We, therefore, direct the Planning and Development Authority to consider the application of the respondents for regularisation of the construction after giving opportunity to the petitioner herein to put forth her case. In the event the Planning and Development Authority rejects the application of the respondents for regularisation of the construction, respondents No.2 and 3 to initiate action according to law. It is needless to say that the action to be initiated only after the

aggrieved parties exhaust their remedy of appeal, if any, available in law.

5. Petition disposed of accordingly with no order as to costs.

NISHITA MHATRE, J.

P.V. HARDAS, J.

sl.